

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TREVOR BIRDSBILL,

Defendant.

CR-22-38-GF-BMM

ORDER

A Grand Jury has twice indicted Trevor Birdsbill (“Birdsbill”) with one count of Aggravated Sexual Abuse, in violation of 18 U.S.C. §§ 1153(a) and 2241(a)(1). (Doc. 1.) The charges arise from the same alleged sexual assault that occurred within the boundaries of the Fort Peck Indian Reservation on or about October 2018. Birdsbill first was indicted in 2019. *United States v. Birdsbill*, No. 4:19-cr-63-BMM, (D. Mont. March 2, 2021). The Court dismissed without prejudice the 2019 Indictment in March 2021. *United States v. Birdsbill*, No. 4:19-cr-63-BMM, (D.

Mont. March 2, 2021). A Grand Jury reindicted Birdsbill in June 2022, initiating the instant case. (Doc. 1.)

Birdsbill has filed Motions to Dismiss the Indictment with prejudice in the current case, arguing that the Government's prosecution of this matter has violated his rights under the Fifth and Sixth Amendments and the Speedy Trial Act. (Doc. 38); (Doc. 41.) The Government concedes that more than seventy non-excludable days have elapsed in this case without Birdbill's receiving a trial, triggering a violation of the Speedy Trial Act that requires dismissal. (Doc. 49); 18 U.S.C. § 3162(a)(2). The Government asks the Court to dismiss the Indictment for this violation, but the Government requests a dismissal without prejudice (Doc. 49); (Doc. 51.)

The Court will dismiss the Indictment for violation of the Speedy Trial Act. The Court will address by separate Order the remaining issues presented in Birdsbill's Motions, including whether the dismissal comes with or without prejudice.

ORDER

Accordingly, **IT IS ORDERED:**

1. Birdsbill's Motion to Dismiss (Doc. 38) is **GRANTED**.
2. The Court reserves the issue of whether the dismissal is with or without prejudice.

Dated this 9th day of June, 2023.

A handwritten signature in blue ink that reads "Brian Morris".

Brian Morris, Chief District Judge
United States District Court